

DOUBLE TAXATION: SHIPPING PROFITS

*Exchange of notes at Washington April 16 and June 10, 1930
Entered into force June 10, 1930; operative from January 1, 1921*

47 Stat. 2584; Executive Agreement Series 6

The Spanish Ambassador to the Acting Secretary of State

[TRANSLATION]

ROYAL SPANISH EMBASSY

WASHINGTON, *April 16, 1930*

No. 84-15

MR. SECRETARY:

I have the honor to refer to Your Excellency's kind note of the 5th instant relative to the exemption from taxation in the United States on revenue derived from operations of Spanish vessels, giving me a transcript of the communication which had been received in the matter from the Treasury Department, points of which were quoted thereunder.

It is a satisfaction for me to be able to express to Your Excellency the pleasure with which I have seen that the recent statements of the Spanish Minister of Finance, expressed in my note of February 11, 1930, accord with the proposals which the American Secretary of the Treasury was good enough to make in the letter of August 2, 1929 which he addressed to the *Compañía Trasatlántica*, through my intermediary.

In view of the foregoing, I request Your Excellency to be so good as to give the appropriate instructions to the corresponding authorities in order that they may take into account this decision with respect to the Spanish Shipping Companies in the sense that the profits of Spanish citizens which consist exclusively in earnings derived from vessels documented in Spain shall be exempt from taxation in the United States by the laws of this country, and particularly with respect to that set forth by Your Excellency in your note of September 26, 1929, regarding the case of the *Compañía Trasatlántica*.

As soon as I received the above-mentioned note of the 5th of the current month of April from Your Excellency, I hastened to transmit the correspondence in copy to the Ministry of State at Madrid, and while I await a reply, it is my pleasing duty to express to Your Excellency my gratitude

for the good will which from the beginning I have been able to value, both in the Treasury Department and in the Department under Your Excellency's worthy direction, to arrive at a favorable solution of this matter, which cannot do less than strengthen the good relations existing between our two countries.

I avail myself [etc.]

ALEJANDRO PADILLA

Honorable J. P. COTTON
[Acting] Secretary of State
Department of State
Washington, D.C.

The Secretary of State to the Spanish Ambassador

DEPARTMENT OF STATE
WASHINGTON, June 10, 1930

EXCELLENCY:

I have the honor to refer to previous correspondence concerning the desire of Spanish nationals to be exempted from income taxation in this country on revenue derived from the operation of Spanish ships and to inform you that a communication in the matter has been received from the Treasury Department, the pertinent portions of which are quoted hereunder:

"Under date of March 31, 1930, this office expressed the opinion that Spain meets the reciprocal exemption provisions of the Revenue Acts of 1921, 1924, and 1926, and stated that accordingly the income of Spanish nationals which consists exclusively of earnings derived from operation of ships documented under the laws of Spain would be exempted from taxation by the United States under those Acts. It was further stated that inasmuch as sections 212(b) and 231(b) of the Revenue Act of 1928,¹ relating to exemption of the income of nonresident aliens and foreign corporations, are substantially the same as section 213(b)(8) of the Revenue Acts of 1921, 1924, and 1926,² the exemption would be extended to the taxable years governed by the Revenue Act of 1928.

"In order to put the arrangement into effect this Department, under date of April 25, 1930, issued Treasury Decision 4289 which amended article 89 of Regulations 62, 65, and 69, and article 1042 of Regulations 74, pertaining to the reciprocal exemption from income tax of earnings derived by nonresident aliens and foreign corporations from the operation of ships documented under the laws of foreign countries. The effect of that Treasury decision is to include Spain in the list of countries which exempt from tax so much

¹ 45 Stat. 847, 849.

² 42 Stat. 239; 43 Stat. 269; 44 Stat. 25.

of the income of citizens of the United States nonresident in such foreign countries and of corporations organized in the United States as consists of earnings derived from the operation of a ship or ships documented under the laws of the United States, and to exclude Spain from the list of countries which do not grant such exemption.

"In addition to the formal Treasury decision issued by this Department the Collector of Internal Revenue, Customhouse, New York, New York, was specifically advised under date of April 23, 1930, as to the ruling contained in the letter from this department addressed to your Department under date of March 31, 1930, and was informed that the Compania Transatlantica (Spanish Royal Mail Line) would not be held liable for income tax on income which consists exclusively of earnings derived from the operation of ships documented under the laws of Spain for the taxable years arising under the Revenue Acts of 1921, 1924, 1926, and 1928."

Accept [etc.]

For the Secretary of State:

FRANCIS WHITE

HIS EXCELLENCY

SEÑOR DON ALEJANDRO PADILLA Y BELL

Ambassador of Spain